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THE CRIMINOLOGIST AND THE COURTS¹

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INTRODUCTION

It will be unnecessary before this audience to discuss either the need of the criminologist in connection with the work with the Criminal Courts nor to describe in detail his functions, which may be summed up as the scientific study of criminals. By this we mean to include both the problems of diagnosis or classification and of treatment. Instead, this paper will undertake a brief discussion of some of the personality types which have proved themselves of unusual importance in the criminological study and certain special problems in regard to their general management and the treatment which these suggest.

TYPES OF CASES

I—Paranoid or Egocentric Personality

The first type of case to which I wish to call attention here is one which forms a very large proportion of the cases coming up for consideration by courts. It is characterized by certain traits of personality which are anti-social and fraught with danger both for their possessor and for the rest of the community. On account of the markedly egotistical characteristics of this personality and on account of their resemblance in certain aspects to a group of mental disease known as paranoia or paranoia-like diseases, the name of paranoid or egocentric personality has been applied to this type of case. Even a brief summing up of the characteristics of this type would require a catalog of considerable length, which would include all the different terms implying selfishness, vanity, brutality and ruthlessness in all shades and degrees possible. While the egocentric personality may be associated with more or less serious disturbances of mentality, and as a matter of fact is frequently found associated with feeble-mindedness and insanity, it is in the criminological field particularly that we meet with numerous individuals whose social difficulties can be quite definitely traced to their paranoiac type of personality and who are in no sense to be considered

¹Read at the Annual Meeting of the American Institute of Criminal Law and Criminology at Indianapolis, September 17, 1920.

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feeble-minded, insane or mentally below par in the ordinarily accepted sense of this term. These individuals not infrequently are endowed with at least average, or even superior intelligence; in fact, their plying their nefarious trades often depends upon their being able to outwit the honest, respectable citizen. Nor can one adduce as extenuating circumstances that they are acting as the result of some impelling impulse emanating from the diseased condition of the brain. On the contrary, they are in full possession of their mental faculties in every reasonable sense of this word. In dealing with this problem of personality I would not be understood as claiming that so difficult a subject can be boiled down to one simple characteristic. The human mind represents the most complex organization that we know of in the universe. The human personality is the expression of a very large part of the human mind and is consequently an extremely complex entity. Regarded from one point of view, therefore, one might say that personality is the most diverse of individual phenomenon we have to deal with in mental science. On the other hand, all the items in a personality analysis are not of equal value, and it is therefore possible to make some classifications and groupings. In this sense the egocentric or paranoid personality includes within it a great diversity of personalities, the common characteristic being the exaggeratedly egocentric reaction. This classification, furthermore, is based not upon any physical or structural quality, so far as we know at present at least, which can be measured, but is based entirely upon an analysis of behavior. Whatever else may characterize the behavior of these individuals, there is always to be found as one of the controlling elements in the situation some manifestation of the paranoid or egocentric personality. That means that the emotional influences and reactions are of secondary importance. The main difficulties are the result of a mistake in the logical thought processes perhaps, and perhaps in the sphere of self-consciousness. The individual has a distorted perception of his relation to his environment. The ego is given undue weight. As the result, such individuals are extremely intolerant of others, very sensitive and easily offended, insistent on their rights, uncompromising, vain, selfish, arrogant and contemptuous of others, often indifferent to others or even brutal and cruel. If anybody gets in their way they are ruthless in their endeavor to sweep the obstacle to one side. They are treacherous and deceitful. Through it all they are even able sufficiently to realize the point of view of others, and in their conversation particularly will often show an extraordinary regard for the prejudices of the community. These people, therefore, often are "good talkers" and are

able to phrase very proper sentences. They give plausible explanations for their misconduct; they give verbal evidence of a "change of heart"; they say all proper things, apologize, and protest that although possibly guilty they now see the error of their ways and have made up their minds to "go straight." Their behavior, however, if carefully studied, will be found not to correspond to these utterances in any important degree, but, on the contrary, to be actuated entirely by selfishness and vanity; often it is the desire for the gratification of a passing whim. In making a statistical analysis of institutions, it has been found that frequently from fifty to seventy-five per cent of the inmates of the reformatory or penitentiary consist of this group. In the Juvenile Court, Chicago, practically all cases which are found to be neither feeble-minded nor insane and which fail on probation belong to this type. Very frequently one is misled by the rather spectacular nature and prominence of emotional manifestations. This is true particularly in the young female offenders—violent outbursts of temper, restlessness, hyperkinesis and other emotional outbursts may give a coloring of emotional instability to the case which is misleading. However disturbing these reactions may be, and however important the problem presented so far as the management of the case is concerned, it is important that the examiner be not misled so as to lose sight of the underlying egocentric element in the difficulty.

The great problem that is presented by these cases, from the practical point of view, is that of their disposition. In the whole course of court work it is clear that these cases cannot be placed in the community. Frequently, especially in the Juvenile Courts, these cases form the residuum of probation failures. An institution becomes the only feasible answer to the problem; the question is which institution. Under the existing conditions, since these cases are neither insane nor feeble-minded they can be disposed of only by commitment to a penal or correctional institution. I venture the statement that, in the Juvenile Courts particularly, if the studies in the psychopathic laboratory and the treatment by probation is sufficiently well developed, a very large proportion of the cases sent to the correctional schools will be cases of markedly egocentric personality. There is a suggestion in this for the institution management to the effect that if the institution is to deal with this problem something more than the persuasive methods of probation are called for, if the correctional schools and other institutions of the kind will continue the development of their professional staffs with the scientific study of the treatment of this very troublesome group of cases. Something more specific and better suited to the

individual case is needed than mere incarceration. This applies to all the institutions—just as much in penitentiaries as in reformatories and correctional schools. Furthermore, we are dealing here with a disturbance of personality, which is not based upon any acquired disease or incapacity but is inherent in the individual's make-up. Just as the paranoiac is among the most refractory so far as treatment is concerned, so the paranoid personality is one which in general gives little hope for any fundamental improvement. The only thing that can be hoped for is an adjustment to the environment which will enable the individual to avoid trouble in spite of his personality. This requires a study of each individual case and an experimental therapy, as it were, in which the different possible treatments, such as training, education, as well as some physical measures, may be applied and a very careful watch of the progress of the case, which implies accurate and reliable records, and in general basing the management and treatment of the case upon the facts in each individual case as they develop. Whatever else may be said of this, and whatever other deductions one might care to make, there is one point which stands out clearly; namely, that it is just as impossible for the court or any other agency to determine at the time of sentence how long treatment will have to be applied in order to relieve the difficulty as it would be for any agency to sentence patients to a hospital for a definite time to be relieved of physical illness. Nor is the indeterminate sentence, as it would be applied, satisfactory for the reason that even though it is more liberal than the fixed sentence and in many cases allows ample time to effect results, it nevertheless does fix limits and, in my opinion, fortifies the callacious principle that commitment to a penal or correctional institution is punishment. It confirms the prisoner in his idea that, having damaged society, he is now making restoration and that as he cannot restore life or property he can pay back in part at least by this supplement. We have given up the idea of dealing with paranoiacs in this way. In my opinion, we will not progress much in dealing with the egocentric personality until we adopt a more impersonal and scientific method than we are applying at present.

II—*The Defective Delinquent*

Here again one is tempted to become discursive, but time does not permit more than a brief mention of this very troublesome group. As to the classification. Whatever definition one may choose, there are two main points which must be kept in mind. The first is that the individual is mentally defective; and the second is that he

persistently violates regulations or conducts himself in some unusually offensive manner. A great deal, of course, depends upon the diagnosis of defectiveness. Ordinarily this diagnosis is made on the basis of the application of a set of intelligence tests. When all is said and done, the problem of the defective delinquent is not so much a problem of mental defectiveness as it is of unruly behavior. It is the individual who persistently disturbs the placid routine of the well conducted school for the feeble-minded who is called a defective delinquent; it is the individual who, not being feeble-minded, refuses to conform to the simpler rules of conduct of the reformatory or correctional school who is called a defective delinquent. The only point that I wish to make in this connection is that if these cases are analyzed, it will be found that in the majority of them the trouble is caused not by the mental defect primarily but by the insubordinate and vicious behavior reactions. It is definitely a behavior problem and not a problem of disease. As a result we find that in this group will occur cases belonging to the various other classifications, as there are undoubtedly feeble-minded individuals who present this behavior, there are also psychopathic and psychotic individuals who belong to this group, and there are individuals who belong to this group, and there are individuals who are far from being mentally defective who none the less would be grouped here on the basis of their behavior. It is more than a suspicion, therefore, that a great part of this problem is caused by the egocentric personality rather than by mental deficiency. I shall return to this problem later on in discussing the possibilities of treatment.

III—*The Psychopathic Criminal*

Another type of criminal and delinquent which I wish to discuss here, on account of certain similarities with the problems of those just stated, is the psychopathic criminal, who under our present system of administering justice is pronounced insane in court and thus relieved of responsibility for his crime and is committed to a hospital for the insane, only to be released after the affair has blown over, as not insane. The legal definition of insanity is one which allows a great deal of latitude in the cases of psychopathic personality. By psychopathic personality we mean an individual in which there exists a definite and positive trend towards a variety of behavior difficulties familiar to everyone dealing with crime and criminals. Under this heading is included the vagrant, hobo, profligate, liar, swindler, eccentric or contentious individuals, chronic litigant, the violent, short-tempered person who impulsively commits serious crimes, and a long list of other

similar difficulties. These cases are not feeble-minded; on the contrary, they may have a high degree of intelligence. They are not insane or epileptic, but they deviate none the less from the healthy, normal type so far as to represent a definite problem of mental pathology.

DISCUSSION

There are many other illustrations that might be adduced, but these will suffice definitely to point out the need for changes in the present system of dealing with a very large proportion of the criminal cases that come before the courts. So long as the criminal law determines these cases on the basis of responsibility and on the basis of property damage we will have difficulty, for one cannot deal with the personality problem on the basis of property valuation. We shall not make any headway here until the criminal law is changed to consider personality values, just as our insane and feeble-minded commitment acts disregard property values and lay the emphasis upon personality values.

Not to prolong this discussion, I will sum up my points in the form of recommendations:

(1) Criminals and delinquents should be committed by the courts, not to definite institutions but to the guardianship of the state, to be under the scientific direction of trained criminologists.

(2) The treatment applied to the prisoners should be based upon the study of their individual needs, and the duration of the treatment to depend upon their progress towards normality rather than upon their promises and good intentions or their ability to conform to the discipline of any particular institution. Thus the object of the institutions dealing with delinquents and criminals should not be to maintain discipline and to enable the prisoner to serve his sentence in the least possible time conformable with the law, but to treat each individual prisoner and to apply the treatment for as long or as short a time as his case requires.

Under a properly administered department of state guardianship, therefore, it would be possible to transfer the wards of the state from institution to institution, from occupation to occupation, and from one environment to another, according to the needs of each individual case. An individual who makes a quick recovery need not be a burden to the community for several years because of the legal classification of his crime. On the other hand, an individual who has offended in a minor way and who has only a relatively short sentence, but who turns out to be a serious problem, could be kept under guardianship and treatment

indefinitely. I wish to emphasize in this connection particularly the urgent need for some such provisions as these for dealing with the ego-centric personality.

(3) The criminals, the feeble-minded, the insane and the dependents should be legally declared minors until such time as they may be able to prove that they have reached a state of maturity equivalent to adult age and are now capable of managing their own affairs. Any one of this group, including the juvenile delinquents, therefore would be a minor until the court had declared him no longer one. Under our habeas corpus act, the individual would be as safe under such a law as the insane and feeble-minded now are under our commitment laws.